

Testimony Provided by Henry Blanco
for the
National Association of Adult Protective Services Administrators

Mr. Chairman, members of the committee,

I would like to extend my congratulations to you and the committee for providing a forum to discuss this serious issue; the physical and sexual abuse of our most vulnerable population; elderly and vulnerable adults who are institutionalized. My name is Henry Blanco. I am the Program Administrator for the Aging and Adult Administration within the Arizona's Department of Economic Security. However, today I am testifying before you as a representative of the National Association of Adult Protective Services Administrators. The Association represents Adult Protective Services (APS) programs nationwide, by providing advocacy, training, research and innovation in the field of APS. All States in our Union have identified APS programs. However, there is no federal law, which provides direction for program requirements. As a result, program parameters are developed around State statute. Some APS programs are not involved in the investigating allegations of abuse in long term care facilities.

Adult Protective Services are those services provided to elderly and disabled adults who are in danger of abuse, neglect or exploitation; and who are unable to protect themselves, and have no one to assist them. Some of these services include:

- Investigation of reports of abuse, financial exploitation and neglect of vulnerable adults;
- taking immediate action to protect victims' safety and property; and
- also arranging for a wide variety of supportive services such as emergency housing, homemaker, food, medical and health treatment and other essential services.

Reports of elder abuse, neglect and exploitation are increasing dramatically but not the budgets for Adult Protective Services. It is estimated that in the United States, 2 million older persons and persons with disabilities are abused, neglected and financially exploited each year. Most experts believe this number may be only the tip of the iceberg, since many victims are unable to report their abuse and have no one to do so for them. The American Academy of Family Physicians reports "we are losing our elders to an epidemic rarely talked about or even acknowledged. An epidemic that leaves some ashamed, some afraid and too many dead."

Studies indicate only one out of every 14 cases of elder abuse is reported. Aging should be a gift, not a time of fear and deprivation. In the next twenty-five years, there will be an unprecedented growth in the number of our older citizens. By 2030, 20% of our population will be persons over age 65, more than twice their number in 1997.

APS programs all over the country have struggled on their own, with minimal resources, to develop quality services for our most vulnerable adult citizens. These victims, who are mistreated in every way imaginable, are often unable to help or even speak for themselves. APS programs are serving the fastest growing population in the nation. Although we have made great strides, we cannot possibly meet the increasing demand and complexity of needs facing our clients without federal leadership and resources.

In Arizona, 18% of our APS investigations involve allegations from long term care facilities. According to the most recent figures from the National Center for Health Statistics, there are currently 16,700 nursing homes in the U.S. with 1.8 million beds, serving 1.6 million residents.

Of these homes 95.6 % of them are certified for Medicaid and/or Medicare participation. Without question, the physical and sexual abuse of our elders in long term care facilities must be highlighted and addressed with all possible resources. I would like to provide you an example of five cases APS was involved with:

Case 1. A 64-year-old woman placed in a long term care facility. The client was to have a diagnostic test (barium enema) on Monday A.M. The doctor had ordered one tap water enema to be given the night before. The client however, was not an easy person to get along with, often demanding and belligerent. Two LPN's decided to get even with client because of her behaviors and gave her 15 enemas with approximately 3 feet of tubing completely pushed into her rectum. Along with the 15 enemas, she was also given mineral oil retention enemas and fleets enemas. The client cried out once that they were hurting her and the LPN's told her to shut up. The LPN's also gave her an injection of narcotic to keep her quiet while they perpetrated this atrocity. The LPN's lied on the narcotic sheet saying the drug had fallen and broken. The Registered Nurse in charge of the floor was aware of what was happening as well were the Certified Nurse Aides. None of this would have come to light had the client not complained that the nurses had verbally abused her. The case took 3 years to get to court.

Case 2. An 85-year of women was raped at a local nursing home. She was alert, oriented and competent. The client said the male caregiver had raped her. The long term care facility chose not to believe her and instead gave her two Tylenol and told her to get a good night's sleep and they would talk about it in the morning. Another source reported the incident and APS investigated. The facility had changed the linens on the client's bed, however they had not been washed. The local law enforcement sex abuse unit was able to retrieve the sheets. Semen was found on the sheets. She had been raped. The certified nurse's assistant was arrested, tried and sent to jail.

Case 3. A 74-year-old was raped by a CNA. Another staff person saw the CNA with his pants down around his ankles and asked what was going on. The CNA said he was "adjusting himself". The CNA was asked to leave the facility. The Victim was demented and unable to communicate. Rape could not be substantiated and charges were not filed.

Case 4. An 89-year-old woman in Vermont who suffered from Alzheimer's disease was living in a licensed residential care home. Finding the woman's door locked, the head of nursing let herself into the room with a key and found the maintenance man having sexual contact with the victim. He had been having sexual relations with her for several months, even though she was incapable of giving informed consent. It appeared that he had preyed on other residents over the years.

Case 5. In Wyoming a CNA pleaded no contest to one count of Battery and two counts of Elder Abuse/Neglect. The case was prosecuted by the Medicaid Fraud Control Unit of the Attorney Generals's Office. The Medicaid Fraud Control Unit worked in close cooperation with the Adult Protective Services Division of the Department of Family Services. The charges stem from allegations of physical and mental mal-treatment by the CNA upon a nursing home resident where she was employed. The CNA was sentenced to 150 days incarceration that was suspended, with the condition of one year probation. She was ordered to pay a \$100.00 fine for the Battery count, \$100.00 for each of the Elder Abuse/Neglect counts, \$300.00 to Crime Victims Compensation and court costs and Public Defender fees. The CNA and the State agreed that she will not seek employment in the care and treatment of the elderly or disabled in the future and she will attend anger management classes.

These cases are complex and involve the necessary coordination of many different agencies and jurisdiction. Coordination between APS, law enforcement, regulatory agencies, professional licensing boards, Long Term Care Ombudsman program, Medicaid Fraud units to name a few, are critical in successfully addressing these issues. The concern has been expressed that some of the actions by these agencies may be duplicative. The reality is that, although only 8% of the elderly population reside in long term care facilities, there can never be too many "eyes" ensuring their safety.

There are several initiatives that we would recommend:

- 1) As the Congressional report indicates, salaries and training for the caregivers is a major issue. It is estimated that the average age of an employed caregiver is 44 years of age. In addition it is estimated that 47.5% of today's long term care workforce are baby boomers who will either have aged parents to care for in the future or will need support themselves. The issue of salary and their relationship to quality must be addressed.
- 2) Many states have APS mandatory reporting laws. Some states provide protection from civil or criminal liability for the reporting source. Other states protect the reporting source from retribution by their employer for reporting to APS. These protections and requirements should be available nationwide.
- 3) The Social Services Block Grant is the only source of federal funding that specifically provides funds for the delivery of Adult Protective Services. SSBG has been reduced over the past few years from \$2.8 billion to \$1.7 billion, more than a one billion-dollar cut in these critical funds! When states lose SSBG funds, APS often are among the programs frequently cut. It is urgent that SSBG funds be restored to at least \$2.8 billion. SSBG funds support APS services for approximately 650,000 older and disabled adults. 31 states depend on these funds to provide protective services to victims like I just described. In Texas, for example, eighty percent of the state's APS system is financed by SSBG. Although the President's budget for FY 2003 holds SSBG at \$1.7 billion we are heartened by the recent news that the White House is supportive of Senators Lieberman and Santorum's CARE legislation that would restore SSBG funding on a temporary basis. Their bill, S 1924, the *Charity Aid, Recovery and Empowerment ("CARE") Act of 2002* would increase SSBG funding to \$1.975 billion in FY '03 and then \$2.8 billion in FY '04. Unfortunately the bill includes a provision that would return SSBG to the current \$1.7 billion level in FY '05. The inclusion of their bill, S 1924, the *Charity Aid, Recovery and Empowerment ("CARE") Act of 2002* would increase SSBG funding to \$1.975 billion in FY '03 and then \$2.8 billion in FY '04. The provision even if only for two years reflects understanding of the importance of SSBG and that it helps states fund services for vulnerable populations much of which gets into the hands of social services agencies associated with faith-based organizations, such as Catholic Charities and Jewish Family Services. SSBG needs more than a temporary fix but the provisions in S 1924 would be a crucial step in the right direction.
- 4) Provide a dedicated fund source for expansion, enhancement and development of services for a nationally funded APS program. The Violence Against Women's Act received \$200 million of the federal funding available to address victims of violence, only .08% was spent on elder abuse.
- 5) Encourage model programs and community partnerships between APS, law enforcement at all levels and regulatory agencies.

6) Quantify the link between physical and sexual abuse in long term care facilities and the resulting high costs to public programs like Medicaid.

7) Continue to support and expand funding for programs that provide alternatives to institutional care.

8) Strengthen the requirements for fingerprinting and background checks for all employees of long term care facilities. A major obstacle in this area is the expense and amount of time required for fingerprint clearance.

9) Recognize that physical and sexual abuse occurs at all levels of care and must be aggressively addressed regardless of where it occurred.

10) Review federal regulations, both programmatic and funding, to assure that obstacles to coordination and cooperation are not created for the many state and federal agencies involved with long term care facilities. One of the areas to review is the ability to share information, which may be essential, but considered confidential.

Adults served by Adult Protective Services programs are among this country's most vulnerable citizens. Those in our nations long term care facilities are often our most isolated. Most of these victims are unable to ask for our help. As we have seen in many of our cases, when it is asked for, it is often responded to with a hit, a slap, a pinch and in some cases, rape. Our current generation of older victims have raised their families, made numerous sacrifices, endured hardships and have done so much for America and others throughout the world. Now too many of them are being abused and deserve our immediate attention. They need our help, they deserve your attention, and they have earned the right to be safe in their older years, regardless of where they reside. The true measure of our society will be how we treat those who have spent their lives doing for others.

Thank you.